

## SUPREME COURT DECISIONS

No opinions released

## COURT OF APPEALS DECISIONS

STATE OF IDAHO v. MICHAEL BRIAN WILSON

No. 42532

Release date: October 29, 2015

Idaho Court of Appeals

GUTIERREZ, Judge

**Whether a juror's relocation to another county during trial disqualified her and application of Rule 404(b) evidence of gang association in prison.** Wilson contended that his right to a fair trial and due process of law was violated when a disqualified juror served on his jury. He also argues that the trial court erred in admitting evidence regarding his gang association. Juror 52 stated in voir dire that she was planning to move from Ada County to Canyon County that coming weekend. Because there was no objection the Court applied *State v. Perry's* fundamental error analysis. They held that even if the juror was statutorily disqualified, Wilson has not established that the juror was not impartial sufficient to constitute a constitutional violation. The Court also held that because the trial court properly weighed the potential for prejudice against the probative value of the evidence, and because the court took steps to mitigate the potential for unfair prejudice, it (the trial court) did not abuse its discretion in admitting 404(b) evidence of Wilson's gang association. Affirmed.

<http://www.isc.idaho.gov/opinions/42532.pdf>